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Remarks

Claims 1-30 are now pending in this application. Claims 2, 4-7, 19, and 20-24 have been withdrawn. Claims 1, 14, and 26 have been amended. Claims 8 and 25 are objected to. Claims 1, 3, 9-18, 20, and 26-30 are rejected. No new matter has been added.

Applicants respectfully submit that although the Office Action Summary of the Office Action states that Claims 1, 3, 9-18, 20, and 27-30 are rejected, Claim 26 is pending in the above-referenced application, and was indicated as rejected on page 3 of the Office Action.

Applicants respectfully traverse the statement that the election was made by Applicants as an election without traverse. Specifically, the Response to Restriction Requirement filed on August 11, 2003 states, "Applicants elect with traverse to prosecute the invention of Group VI, claims 9-13 and 26-30...Applicants note that all the cited Claim Groups each fall within Class 62, and submit that a thorough search and examination of any Group would be relevant to the examination of the other Groups and would not be a serious burden on the Examiner. Additionally, requirements for election are not mandatory under 35 U.S.C. §121." Hence, Applicants specifically pointed out the reasons on which the Applicants based their conclusions that the restriction requirement is in error (MPEP 818.03(a)). Hence, Applicants respectfully submit that the election be treated as an election with traverse.

The rejection of Claim 15 under 35 U.S.C. § 112, second paragraph, is respectfully traversed. Applicants have amended Claim 14 to make Claims 14 and 15 consistent with each other. Accordingly, Applicants respectfully submit that Claim 15 particularly points out and distinctly claims the subject matter which the Applicants regard as their invention. Accordingly, Applicants respectfully request that the rejection of Claim 15 under section 112, second paragraph, be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejection of Claim 15 under section 112, second paragraph, be withdrawn.

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The rejection of Claims 1, 3, 14-17, and 20 under 35 U.S.C. § 102(b) as being anticipated by Aoki et al. (U.S. Patent No. 5,136,865) is respectfully traversed.

Aoki et al. describe a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units, the chamber for use as a freezer, a refrigerator and chambers for use as a combination of a freezer and refrigerators or as a combination of refrigerators operable at different temperatures, including a controller (column 2, lines 50-58). The controller includes multiple N sets of temperature region setting means each having a plurality of temperature switches for establishing desired temperature regions for respective chambers by setting the switches ON or OFF, and a multiplicity N of temperature setting means provided one for each of the temperature region setting means for presetting, within the respective temperature regions, desired temperatures in respective chambers by selectively presetting the temperature setting means (column 2, lines 58-58).

Claim 1 recites a method for controlling a refrigeration system, the refrigeration system including at least a first refrigeration chamber, a second refrigeration chamber and a controller configured to execute a plurality of algorithms for controlling a temperature of the first chamber and the second chamber, the method including the steps of "accepting a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature; executing the plurality of algorithms to selectively control the first refrigeration chamber at a temperature above the second chamber and at a temperature below the second chamber; and regulating air flow between the first refrigeration chamber and the second refrigeration chamber".

Aoki et al. does not describe or suggest a method for controlling a refrigeration system, the refrigeration system including at least a first refrigeration chamber, a second refrigeration chamber and a controller configured to execute a plurality of algorithms for controlling a temperature of the first chamber and the second chamber, the method including the steps of accepting a plurality of user-selected inputs including at least a first refrigeration chamber

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temperature and a second refrigeration chamber temperature, executing the plurality of algorithms to selectively control the first refrigeration chamber at a temperature above the second chamber and at a temperature below the second chamber; and regulating air flow between the first refrigeration chamber and the second refrigeration chamber.

Moreover, Aoki et al. does not describe or suggest regulating air flow between the first refrigeration chamber and the second refrigeration chamber. Rather, Aoki et al. describe a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Aoki et al.

Claim 3 depends from independent Claim 1. When the recitations of Claim 3 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 3 likewise is patentable over Aoki et al.

Claim 14 recites a refrigeration system including "a first refrigeration chamber; a second refrigeration chamber in flow communication with said first refrigeration chamber, a sealed system for producing desired temperature conditions in the first refrigeration chamber and the second refrigeration chamber; and a controller operatively coupled to said sealed system, said controller configured to: accept a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature; and execute a plurality of algorithms to selectively control the first refrigeration chamber at one of a temperature above the second refrigeration chamber and at a temperature below the second chamber; and an air valve configured to regulate air flow between said first refrigeration chamber and said second refrigeration chamber".

Aoki et al. does not describe or suggest a refrigeration system including a first refrigeration chamber, a second refrigeration chamber in flow communication with the first refrigeration chamber, a sealed system for producing desired temperature conditions in the first refrigeration chamber and the second refrigeration chamber, and a controller operatively coupled

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to said sealed system, the controller configured to accept a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature, and execute a plurality of algorithms to selectively control the first refrigeration chamber at one of a temperature above the second refrigeration chamber and at a temperature below the second chamber, and an air valve configured to regulate air flow between the first refrigeration chamber and the second refrigeration chamber.

Moreover, Aoki et al. does not describe or suggest an air valve configured to regulate air flow between the first refrigeration chamber and the second refrigeration chamber. Rather, Aoki et al. describe a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units. For at least the reasons set forth above, Claim 14 is submitted to be patentable over Aoki et al.

Claims 15-17 and 20 depend from independent Claim 14. When the recitations of Claims 15-17 and 20 are considered in combination with the recitations of Claim 14, Applicants submit that dependent Claims 15-17 and 20 likewise are patentable over Aoki et al.

The rejection of Claims 9-13 and 26-30 under 35 U.S.C. § 103(a) as being unpatentable over Aoki et al. in view of Whipple, III et al. (U.S. Patent No. 5,642,628) is respectfully traversed.

Aoki et al. is described above. Whipple, III et al. describe a refrigerator that includes at least a first compartment cooled to a first temperature and a second compartment cooled to a second temperature, and a multiplex damper system disposed in a cooling-air passage so as to selectively couple the cooling-air flow from the refrigeration apparatus to the compartments (column 2, lines 9-14). The multiplex damper system includes a single movable control damper mounted in the cooling-air passage and a drive control system responsive to the cooling demands of the respective compartments; the drive control system is coupled to the single control damper so as to selectively dispose the control damper in a plurality of respective air flow positions (column 2, lines 14-21). The range of air flow positions includes a first compartment-only air

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flow position, a second compartment-only air flow position, and at least one divided-flow position in which cooling air flow is directed into both the first and the second compartments (column 2, lines 21-26).

Claims 9-13 depend on Claim 1 which recites a method for controlling a refrigeration system, the refrigeration system including at least a first refrigeration chamber, a second refrigeration chamber and a controller configured to execute a plurality of algorithms for controlling a temperature of the first chamber and the second chamber, the method including the steps of "accepting a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature; executing the plurality of algorithms to selectively control the first refrigeration chamber at a temperature above the second chamber and at a temperature below the second chamber; and regulating air flow between the first refrigeration chamber and the second refrigeration chamber".

Neither Aoki et al. nor Whipple, III et al. describe or suggest a method for controlling a refrigeration system, the refrigeration system including at least a first refrigeration chamber, a second refrigeration chamber and a controller configured to execute a plurality of algorithms for controlling a temperature of the first chamber and the second chamber, the method including the steps of accepting a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature, executing the plurality of algorithms to selectively control the first refrigeration chamber at a temperature above the second chamber and at a temperature below the second chamber, and regulating air flow between the first refrigeration chamber and the second refrigeration chamber.

Moreover, neither Aoki et al. nor Whipple, III et al. describe or suggest regulating air flow between the first refrigeration chamber and the second refrigeration chamber. Rather, Aoki et al. describe a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units, and Whipple, III et al. describe a multiplex damper system disposed in a cooling-air passage so as to selectively couple the cooling-air flow from the refrigeration apparatus to the compartments. For

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at least the reasons set forth above, Claim 1 is submitted to be patentable over Aoki et al. in view of Whipple, III et al.

When the recitations of Claims 9-13 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 9-13 likewise are patentable over Aoki et al. in view of Whipple, III et al.

Claims 26-30 depend on Claim 14 which recites a refrigeration system including "a first refrigeration chamber; a second refrigeration chamber in flow communication with said first refrigeration chamber, a sealed system for producing desired temperature conditions in the first refrigeration chamber and the second refrigeration chamber; and a controller operatively coupled to said sealed system, said controller configured to: accept a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature; and execute a plurality of algorithms to selectively control the first refrigeration chamber at one of a temperature above the second refrigeration chamber and at a temperature below the second chamber; and an air valve configured to regulate air flow between said first refrigeration chamber and said second refrigeration chamber".

Neither Aoki et al. nor Whipple, III et al. describe or suggest a refrigeration system including a first refrigeration chamber, a second refrigeration chamber in flow communication with the first refrigeration chamber, a sealed system for producing desired temperature conditions in the first refrigeration chamber and the second refrigeration chamber, and a controller operatively coupled to said sealed system, the controller configured to accept a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature, and execute a plurality of algorithms to selectively control the first refrigeration chamber at one of a temperature above the second refrigeration chamber and at a temperature below the second chamber, and an air valve configured to regulate air flow between the first refrigeration chamber and the second refrigeration chamber.

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Moreover, neither Aoki et al. nor Whipple, III et al. describe or suggest an air valve configured to regulate air flow between the first refrigeration chamber and the second refrigeration chamber. Rather, Aoki et al. describe a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units, and Whipple, III et al. describe a multiplex damper system disposed in a cooling-air passage so as to selectively couple the cooling-air flow from the refrigeration apparatus to the compartments. For at least the reasons set forth above, Claim 14 is submitted to be patentable over Aoki et al. in view of the Whipple, III et al.

When the recitations of Claims 26-30 are considered in combination with the recitations of Claim 14, Applicants submit that dependent Claims 26-30 likewise are patentable over Aoki et al. in view of Whipple, III et al.

Moreover, Applicants respectfully submit that the Section 103 rejection of Claims 9-13 and 26-30 is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Aoki et al. nor Whipple, III et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Aoki et al. with Whipple, III et al. because there is no motivation to combine the references suggested in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

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Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Aoki et al. teaches a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units, and Whipple, III et al. teaches a multiplex damper system disposed in a cooling-air passage so as to selectively couple the cooling-air flow from the refrigeration apparatus to the compartments. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 9-13 and 26-30 be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejection of Claims 9-13 and 26-30 under 35 U.S.C. 103(a) be withdrawn.

The rejection of Claim 18 under 35 U.S.C. § 103(a) as being unpatentable over Aoki et al. in view of Japanese patent abstract 03267672 (Japanese Patent Application No. JP1990000064163) is respectfully traversed.

Japanese patent abstract 03267672 describe a compressor (11) that is forcibly continuously operated at the time of quick cooling to maintain the temperature of chilled gas to be introduced low. At the time of quick thawing, a chilled gas damper (4) is closed by a command of a controller (16), the compressor is forcibly continuously operated, and a

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temperature in a cold storage chamber is lowered to prevent the temperature at the outer periphery of the chamber from abnormally rising.

Claims 18 depends from independent Claim 14 which recites a refrigeration system including "a first refrigeration chamber, a second refrigeration chamber in flow communication with said first refrigeration chamber, a sealed system for producing desired temperature conditions in the first refrigeration chamber and the second refrigeration chamber; and a controller operatively coupled to said sealed system, said controller configured to: accept a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature; and execute a plurality of algorithms to selectively control the first refrigeration chamber at one of a temperature above the second refrigeration chamber and at a temperature below the second chamber; and an air valve configured to regulate air flow between said first refrigeration chamber and said second refrigeration chamber".

Neither Aoki et al. nor Japanese patent abstract 03267672 describe or suggest a refrigeration system including a first refrigeration chamber, a second refrigeration chamber in flow communication with the first refrigeration chamber, a sealed system for producing desired temperature conditions in the first refrigeration chamber and the second refrigeration chamber, and a controller operatively coupled to said sealed system, the controller configured to accept a plurality of user-selected inputs including at least a first refrigeration chamber temperature and a second refrigeration chamber temperature, and execute a plurality of algorithms to selectively control the first refrigeration chamber at one of a temperature above the second refrigeration chamber and at a temperature below the second chamber, and an air valve configured to regulate air flow between the first refrigeration chamber and the second refrigeration chamber.

Moreover, neither Aoki et al. nor Japanese patent abstract 03267672 describe or suggest an air valve configured to regulate air flow between the first refrigeration chamber and the second refrigeration chamber. Rather, Aoki et al. describe a low-temperature storage having a refrigeration chamber or refrigeration chambers refrigerated independently by a refrigeration unit or refrigeration units, and Japanese patent abstract 03267672 describes the compressor that is

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forcibly continuously operated at the time of quick cooling to maintain the temperature of chilled gas to be introduced low and at the time of quick thawing, the compressor is forcibly continuously operated. For at least the reasons set forth above, Claim 14 is submitted to be patentable over Aoki et al. in view of Japanese patent abstract 03267672.

When the recitations of Claim 18 are considered in combination with the recitations of Claim 14, Applicants submit that dependent Claim 18 likewise is patentable over Aoki et al. in view of Japanese patent abstract 03267672.

Moreover, Applicants respectfully submit that the Section 103 rejection of Claim 18 is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Aoki et al. nor Japanese patent abstract 03267672, considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Aoki et al. with Japanese patent abstract 03267672 because there is no motivation to combine the references suggested in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaack, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose

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For at least the reasons set forth above, Applicants respectfully request that the rejection of Claim 18 under 35 U.S.C. 103(a) be withdrawn.

Claims 8 and 25 have been indicated to contain allowable subject matter if rewritten to include all of the limitations of the base claims and any intervening claims. Applicants wish to thank the Examiner for the indication of allowable subject matter in Claims 8 and 25.

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In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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